



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
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Lieutenant Governor

IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

October 2, 2008

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In the Matter of Paul Cole

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Docket No. WET-2008-019  
DEP File Nos. 89-527  
Amherst

**RECOMMENDED FINAL DECISION**

Seymour and Alice Epstein, individually and as Trustees of Balderwood Realty Trust ("the Petitioners") brought this appeal challenging the February 14, 2008 Superseding Order of Conditions ("SOC") that the Western Regional Office of the Massachusetts Department of Environmental Protection ("MassDEP" or "the Department") issued to the Applicant Paul Cole concerning the real property at 1194 West Street, State Route 116, Amherst, Massachusetts ("the Property"). The SOC authorized the applicant's proposed construction of an eight (8) lot residential subdivision at the Property.<sup>1</sup>

On October 1, 2008, the Petitioners filed a Notice of Withdrawal of their appeal of the SOC. Accordingly, I recommend that MassDEP's Commissioner dismiss the appeal as

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<sup>1</sup> The Department and the applicant are parties to this appeal and are collectively "the Respondents."



moot. Dismissal of the appeal will result in the SOC becoming a final decision of MassDEP. See, Matter of Osmun, Docket No. DEP-04-958, 2005 Mass. Env. LEXIS 45, Final Decision – Order of Dismissal (May 12, 2005).

### **NOTICE**

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for her Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

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Salvatore M. Giorlandino  
Acting Chief Presiding Officer